

FOURTH APPELLATE DISTRICT  
DIVISION ONE  
JUNE 14, 2004

Court convened at 9:00 a.m.

Present: The Honorable Judith McConnell, Presiding Justice, and The Honorable Associate Justices Richard Huffman and Cynthia Aaron  
Clerk: D.E. Moore

**D042431        Grinzi v. San Diego Hospice Corporation**

Cause called on merits. John Y. Tremblatt, Esq. argued for appellant. Margaret Chandler Bell, Esq. argued for respondent. Mr. Tremblatt replied. Cause submitted.

**D042593        Di Pace et al. v. Linsco/Private Ledger Corporation**

Cause called on merits. Samuel Kornhauser, Esq. argued for appellant. Michael L. Kirby, Esq. argued for respondent. Mr. Kornhauser replied. Cause submitted.

Court recessed at 9:50 a.m. to change panel members. New panel members: The Honorable Richard Huffman, Acting Presiding Justice, and The Honorable Associate Justices Cynthia Aaron and Joan Irion

**D041314        Davidson v. Pryor et al.**

Cause called on merits. Donald R. Worley, Esq. argued for appellant. Miriam E. Brewster, Deputy County Counsel argued for respondent. Mr. Worley replied. Cause submitted.

Court recessed at 10:20 a.m. to change panel members. New panel members: The Honorable Judith McConnell, Presiding Justice, and The Honorable Associate Justices Richard Huffman and James McIntyre

**D042200        Agosta v. Astor et al.**

Cause called on merits. Ken Baisch, Esq. argued for appellant. Robert S. Gerstein, Esq. argued for respondent. Mr. Baisch replied. Cause submitted.

Court recessed at 11 a.m. until 1:30 p.m.

Court reconvened at 1:30 p.m.

Present: The Honorable Judith McConnell, Presiding Justice, and The Honorable Associate Justices Gilbert Nares and James McIntyre  
Clerk: D.E. Moore

**D042693        People v. Le**

Cause called on merits. Richard L. Schwartzberg, Esq. argued for appellant. Steve Oetting, Deputy Attorney General argued for respondent. Mr. Schwartzberg replied.

Court recessed at 1:50 p.m. to change panel members. New panel members: The Honorable Judith McConnell, Presiding Justice, and The Honorable Associate Justices James McIntyre and Cynthia Aaron

**D042215        People v. Ochoa**

Cause called on merits. Doris S. Browning, Esq. argued for appellant. Arlene Sevidal, Deputy Attorney General argued for respondent. Ms. Browning replied. Cause submitted.

FOURTH APPELLATE DISTRICT  
DIVISION ONE  
JUNE 14, 2004 (Continued)

**D043030      Elliott v. California State Personnel Board**

Cause called on merits. A. Kendall Wood, Esq. argued for appellant. Regina Petty, Esq. argued for respondent. Mr. Wood replied. Cause submitted.

**D042893      Mann, Jr. et al. v. Quality Old Time Service, Inc., et al.**

Cause called on merits. Lindsay J. Reese, Esq. argued for appellant. Linda LaVonne Goodman, Esq. argued for respondent. Ms. Reese replied. Cause submitted.

**D042429      Raike Financial Group, Inc., et al. v. Hampton**

Cause called on merits. Kristin Maria Cano, Esq. argued for appellant. William David Marsh, Esq. argued for respondent. Ms. Cano replied. Cause submitted.

Court recessed at 3:34 p.m. until Tuesday, June 15, 2004 at 9 a.m.

**D043560      In re Austin P., a Juvenile**

The petition for rehearing is denied.

**D044284      Jerald S. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency**

The attorney for petitioner Jerald S. has notified the court on behalf of the petitioner that a Petition for Writ of Mandate under Rule 39.1B will not be filed as there are no viable issues for writ review. The case is dismissed.

**D044152      Gina M. et al. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency**

Javier M., having failed to file a timely petition for writ relief, the notice of intent is deemed to be abandoned. The case is dismissed.

**D043469      People v. Mikeal**

The judgment is affirmed. Haller, Acting P.J.; We Concur: McDonald, J., Aaron, J.

**D043107      People v. Uriate**

The judgment is affirmed. Aaron, J.; We Concur: Nares, Acting P.J., Irion, J.

**D042878      People v. Williams**

The judgment is affirmed. McDonald, J.; We Concur: Haller, Acting P.J., O'Rourke, J.

**D044472      Ren-E Frances Dooley W. v. Superior Court of San Diego County/Courtney J.W.**

The petition is denied.

**D041342      People v. Hall**

The petition for rehearing is denied.

**D044110      Taylor v. C.D.C. Calipatria State Prison**

Pursuant to California Rules of Court, rule 8, the appeal filed March 29, 2004, is DISMISSED for appellant's failure to timely designate the record (Cal. Rules of Court, rules 4(a) and 5(a)).

FOURTH APPELLATE DISTRICT  
DIVISION ONE  
JUNE 15, 2004

**D042312      Rodriguez et al. v. San Diego Community College District et al.**

The appeal is dismissed pursuant to California Rules of Court, rule 17(a).

**D043868      Shonda G. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency**

The petition is denied. Nares, Acting P.J.; We Concur: McIntyre, J., Irion, J.

**D042303      L & B Contract Industries West v. County of Riverside**

L & B Contract Industries West's appeal is dismissed and its appellate respondent's brief is stricken. The portion of the order according the alleged contingent fee contractual lien of Attorney Henry E. Heater and his firm priority over County of Riverside's equitable offset claim is reversed and the matter remanded to the superior court to enter a new order consistent with this opinion. The remainder of the order is affirmed. County of Riverside is awarded costs on appeal. County of Riverside's request for sanctions on appeal is denied. Irion, J.; We Concur: Huffman, Acting P.J., Aaron, J.

**D041829      Carver et al. v. Chevron U.S.A., Inc.**

The order is affirmed. Costs on appeal are awarded to Respondents. CERTIFIED FOR PUBLICATION. McConnell, P.J.; We Concur: Nares, J., McDonald, J.

**D043985      Crescent Chancellor Park, LLC v. Verne**

Pursuant to California Rules of Court, rule 8, the appeal filed March 15, 2004, is dismissed for appellant's failure to timely designate the record (Cal. Rules of Court, rules 4(a) and 5 (a)).

**D042764      Moore v. San Diego Cemetery Association**

The order denying El Camino's petition to compel arbitration is reversed and the matter is remanded. The parties are to bear their own costs on appeal. O'Rourke, J.; We Concur: McIntyre, Acting P.J., Irion, J.

**D042539      La Jolla Highlands Homeowners Association v. City of San Diego et al.**

The judgment is affirmed. McDonald, J.; We Concur: Benke, Acting P.J., Huffman, J.

**D044476      Darryl Adamson v. Superior Court of San Diego County/University of California**

The petition is denied.

Court convened at 9:00 a.m.

Present: The Honorable Patricia Benke, Acting Presiding Justice, and The Honorable Associate Justices Alex McDonald and Joan Irion  
Clerk: D.E. Moore

**D041671      Dunn v. La Jolla Cove Motel and Hotel Apartments, Inc.**

Cause called on merits. Timothy D. Lucas, Esq. argued for appellant. Frederic Jay Milberg, Esq. argued for respondent. Mr. Lucas replied. Cause submitted.

**D041472      Sneed et al. v. Saenz et al.**

Cause called on merits. Karin Dougan Vogel, Esq. argued for appellant. Rosemary Bishop, Esq. was present in oral argument for appellant, but did not argue. Jennifer A. Chmura, Deputy Attorney General argued for respondent. Karlen Harmison, Deputy County Counsel was present in oral argument, but did not argue. Ms. Vogel replied. Cause submitted.

Court recessed at 10:22 a.m. to change panels. New panel members: The Honorable Gilbert Nares, Acting Presiding Justice, and The Honorable Associate Justices Alex McDonald and Joan Irion

**D043259          Cabrera et al. v. Morris**

Cause called on merits. Lisa Cooney, Esq. argued for respondent. Norman M. Finkelstein, Esq. argued for appellant. Cause submitted.

**D042571          Santos v. Burgess**

Cause called on merits. Sylvia Santos, argued for appellant in pro per. Cause submitted.

Court recessed at 10:42 a.m. until 1:30 p.m.

Court reconvened at 1:30 p.m.

Present: The Honorable Patricia Benke, Acting Presiding Justice, and The Honorable Associate Justices Gilbert Nares and Joan Irion

Clerk: D.E. Moore

**D042334          Salient Networks, Inc. v. Jones et al.**

Cause called on merits. David Zev Ribakoff, Esq. argued for appellant. E. Joseph Connaughton, Esq. argued for respondent. Mr. Ribakoff replied. Cause submitted.

Court recessed at 1:48 p.m. to change panel members. New panel members: The Honorable Patricia Benke, Acting Presiding Justice, and The Honorable Associate Justices Terry O'Rourke and Joan Irion

**D042529          Rincon Del Diablo Municipal v. San Diego County Water Authority**

Cause called on merits. Donald Worley, Esq. argued for appellant. Philip A. Seymour, Esq. argued for respondent. Mr. Worley replied. Cause submitted.

**D043219)          In re Peter S., et al., Juveniles**

**D043580)          In re Peter S., et al., Juveniles**

Cause called on merits. Julie E. Braden, Esq. argued for appellant. Gustavo Roman, Deputy County Counsel argued for respondent. Andrea St. Julian, Esq. argued for the minors. Ms. Braden replied. Cause submitted.

**D042204          Schneider v. County of San Diego**

Cause called on merits. James R. Miller, Esq. argued for appellant. English R. Bryant, Deputy County Counsel argued for respondent. Mr. Miller replied. Cause submitted.

Court recessed at 3:15 p.m. until Wednesday, June 16, 2004 at 9 a.m.

**D043695          San Diego Unified Port District/Superior Court of San Diego County/San Diego County Regional Airport Authority**

The petition for withdrawal of opinion or, in the alternative, rehearing is denied. The request to dismiss the petition is denied as untimely.

FOURTH APPELLATE DISTRICT  
DIVISION ONE  
JUNE 16, 2004

**D044431        People v. Abbott**

Appellant has filed a notice of appeal from non-appealable orders. The appeal is dismissed.

**D042237        Camino Villas I Homeowners Association v. Peters & Freedman, LLP et al.**

**D042746        Camino Villas I Homeowners Association v. Peters & Freedman, LLP et al.**

The parties have notified the court that this case has been settled and have stipulated to a dismissal of the appeal. The court accepts the stipulation and dismisses the appeal. Costs are to be borne by the respective parties individually. The remittitur is to issue forthwith.

**D043511        People v. Brooks**

The judgments of conviction are affirmed. The judgments are modified to vacate the sentences. The cases are remanded with directions to comply with the terms of the plea agreements or allow Brooks to withdraw her pleas. Huffman, Acting P.J.; We Concur: McDonald, J., Irion, J.

Court convened at 9 a.m.

Present: The Honorable Judith McConnell, Presiding Justice, and The Honorable Associate Justices Richard Huffman and Cynthia Aaron

Clerk: D.E. Moore

**D043210        Masters v. Glaser**

Cause called on merits. John Paul Masters, argued for appellant in pro per. Timothy M. Barry, Deputy County Counsel argued for respondent. Cause submitted.

**D042403        In re Miguel E., et al., Juveniles**

**D042787        In re Miguel E., et al., Juveniles**

**D043040        In re Miguel E., a Minor**

Cause called on merits. Andrea St. Julian, Esq. argued for appellant, Miguel E. Linda Fabian, Esq. argued for appellant, Leeanna A. Linda Fabian, Esq. was present to argue on Ms. Evans behalf for appellant, Deborah V. Gary Seiser, Deputy Counsel argued for respondent. Ms. St. Julian replied. Ms. Fabian replied. Cause submitted.

Court recessed at 9:26 a.m. to change panel members. New panel members: The Honorable Richard Huffman, Acting Presiding Justice, and The Honorable Associate Justices James McIntyre and Cynthia Aaron

**D040646        People v. Wright**

Case called on merits. Carl Fabian, Esq. argued for appellant. Teresa Torreblanca, Deputy Attorney General argued for respondent. Mr. Fabian replied. Cause submitted.

**D042756        Magnuson v. Escondido Charter High School District**

Cause called on merits. James G. Ehlers, Esq. argued for appellant. Kevin P. Sullivan, Esq. argued for respondent. Cause submitted.

Court recessed at 10:28 a.m. to change panel members. New panel members: The Honorable Judith McConnell, Presiding Justice, and The Honorable Associate Justices Richard Huffman and James McIntyre

**D043342      Candido v. Viejas Group of the Capitan Grande**

Cause called on merits. Jeremy Golden, Esq. argued for appellant. Phillip C. Samouris, Esq. argued for respondent. Mr. Golden replied. Cause submitted.

Court recessed at 10:52 a.m. until 1:30 p.m.

Court reconvened at 1:30 p.m.

Present: The Honorable Judith McConnell, Presiding Justice, and The Honorable Associate Justices Richard Huffman and James McIntyre  
Clerk: D E Moore

**D041952      Haist v. Rohr, Inc., et al.**

Cause called on merits. Scott D. Bertzyk, Esq. argued for appellant. Jon R. Williams, Esq. argued for respondent. Mr. Bertzyk replied. Cause submitted.

**D041668      People v. Martin**

Cause called on merits. Sylvia Koryn, Esq. argued for appellant. Sharon L. Rhodes, Deputy Attorney General argued for respondent. Ms. Koryn replied. Cause submitted.

Court recessed at 2:27 p.m. to change panel members. New panel members: The Honorable Judith McConnell, Presiding Justice, and The Honorable Associate Justices Alex McDonald and James McIntyre

**D042445      Kilgore et al. v. Rancho Carlsbad Partners et al.**

Cause called on merits. Todd Gabriel, Esq. argued for appellant. Elvi J. Olesen, Esq. argued for respondent. Mr. Gabriel replied. Cause submitted.

Court recessed at 2:55 p.m. until Thursday, June 17, 2004 at 9 a.m.

**D044314      Carlton v. Wasserman Family Trust et al.**

Pursuant to California Rules of Court, rule 8, the appeal filed May 3, 2004, is dismissed.

**D042070      Mira Mar Mobile Community et al. v. City of Oceanside et al./CH Oceanside**

The opinion filed May 17, 2004 is ordered certified for publication.

**D040310      Alberts et al. v. Franklin et al.**

The judgment is affirmed. Haller, J.: We Concur: Huffman, Acting P.J., Aaron, J.

FOURTH APPELLATE DISTRICT  
DIVISION ONE  
JUNE 17, 2004

**D044166 Christina D. et al., v. Superior Court of San Diego County/San Diego County Health and Human Services Agency**

The attorney for petitioner Jose N. has notified the court on behalf of the petitioner that a Petition for writ of Mandate under Rule 39.1B will not be filed as there are no viable issues for writ review. The case is dismissed.

**D042380 People v. Robbins**

The judgment is affirmed. Haller, Acting P.J.; We Concur: McDonald, J., Irion, J.

**D043699 In re C.D., a Juvenile**

The order is affirmed. Huffman, Acting P.J.; We Concur: McDonald, J., Aaron, J.

**D044347 In re Ochoa on Habeas Corpus**

The petition is denied.

**D044297 In re Barnes on Habeas Corpus**

The petition is denied.

**D044328 Jose T. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency**

The attorney for petitioner Jose T. has notified the court on behalf of the petitioner that a Petition for writ of Mandate under Rule 39.1B will not be filed as there are no viable issues for writ review. The case is dismissed.

**D044343 In re Perez on Habeas Corpus**

The petition is denied without prejudice to refile after consideration by the superior court.

**D044313 Princess Cruise Lines, Ltd. v. Superior Court of San Diego County/Mani et al.**

The petition is denied.

**D042989 In re Taylor K., a Juvenile**

The order is affirmed. Benke, Acting P.J.; I Concur: Nares, J., Dissenting opinion: McDonald, J.

**D043766 Utility Audit Co., Inc. v. Public Utilities Commission of The State of California/Southern California Gas Company**

The petition is denied.

**D044346 In re Nasirichampang on Habeas Corpus**

The petition is denied.

**D044345 National Union Fire Insurance Company et al. v. Workers' Compensation Appeals Board and John Edwards**

The petition is denied.

**D042696 People v. Kellogg**

The judgment is affirmed. CERTIFIED FOR PUBLICATION. Haller, J.; I Concur: McConnell, P.J., I Dissent (by opinion): McDonald, J.

FOURTH APPELLATE DISTRICT  
DIVISION ONE  
JUNE 17, 2004 (Continued)

**D041209        Hlavay et al. v. D.R. Horton San Diego Holding Company, Inc. et al.**

This Court's stay imposed by order dated February 18, 2004 is lifted. Upon written stipulation filed by the parties to the appeal, the appeal is dismissed and the remittitur is ordered to issue immediately (Cal. Rules of Court, rule 20(c)(2)). Each party to bear own costs on appeal.

**D044281        Vinci v. Superior Court of San Diego County/Lair et al.**

The petition is denied.

**D044341        In re Harris on Habeas Corpus**

The petition is denied.

**D043881        In re Taylor on Habeas Corpus**

The petition is denied.

**D042789        Walker v. Alger**

The judgment is affirmed. O'Rourke, J.; We Concur: Nares, Acting P.J., Irion, J.

**D043245        People v. Bennett**

The judgment is affirmed. Huffman, Acting P.J.; We Concur: McDonald, J., O'Rourke, J.

**D043056        People v. Russell**

The judgment is affirmed. Irion, J.; We Concur: Huffman, Acting P.J., O'Rourke, J.

**D042658        People v. Davis**

The judgment is affirmed. Nares, J.; We Concur: Huffman, Acting P.J., Irion, J.

**D042796        People v. Gamlin**

The judgment is affirmed. Aaron, J.; We Concur: Benke, Acting P.J., O'Rourke, J.

**D042196        Noble v. Aldred**

The judgment is reversed. Noble is entitled to costs on appeal. Aaron, J.; We Concur: Benke, Acting P.J., McDonald, J.

**D041452        People v. Mullens**

The judgment is reversed, and the matter is remanded for a new trial. CERTIFIED FOR PUBLICATION. Nares, Acting P.J.; We Concur: McIntyre, J., Irion, J.

Court convened at 9 a.m.

Present: The Honorable Richard Huffman, Acting Presiding Justice, and The Honorable Associate Justices James McIntyre and Cynthia Aaron

Clerk: D.E. Moore

**D043188        Whaley et al. v. Sony Computer Entertainment America, Inc., et al.**

Cause called on merits. Alan J. Gordee, Esq. argued for appellant. Ann L. Mezzacappa, Esq. argued for respondent. Mr. Gordee replied. Cause submitted.



Court recessed at 9:39 a.m. to change panel members. New panel members: The Honorable Patricia Benke, Acting Presiding Justice, and The Honorable Associate Justices Richard Huffman and James McIntyre

**D042963      Utility Consumers' Action Network v. Public Utilities Commission of the State of California/San Diego Gas & Electric-RPI**

Matter called on merits. Alan M. Mansfield, Esq. argued for petitioner. Laurence Gene Chaset, Esq. argued for respondent, Public Utilities Commission. Joseph M. Malkin, Esq. argued for real party in interest, SDG&E. Mr. Mansfield replied. Matter submitted.

Court recessed at 10:57 a.m. until 11:00 a.m.

Court reconvened at 11:00 a.m.

Present: The Honorable Richard Huffman, Acting Presiding Justice, and The Honorable Associate Justices Gilbert Nares and Cynthia Aaron'

Clerk: D.E. Moore

**D043302      People v. Verheggen**

Matter called on merits. Michael Zachry, Deputy Attorney General argued for petitioner. Gary Nichols, Deputy Public Defender argued for respondent. Mr. Zachry replied. Matter submitted. The oral argument CD of this hearing is ordered sealed, pending further order of the court.

Court recessed at 11:31 a.m. until 1:30 p.m.

Court reconvened at 1:30 p.m.

Present: The Honorable Judith McConnell, Presiding Justice, and The Honorable Associate Justices Alex McDonald and Terry O'Rourke

Clerk: D.E. Moore

**D042049      Justice v. Wells Fargo Bank**

Cause called on merits. Robert Volney Justice argued for appellant, in pro per. Herbert Papenfuss, Esq. was present in oral argument in case the court had questions. Cause submitted.

Court recessed at 1:45 p.m. to change panel members. New panel members: The Honorable Judith McConnell, Presiding Justice, and The Honorable Associate Justices Patricia Benke and Alex McDonald

**D043589      In re Carl R., a Juvenile**

Cause called on merits. Julie E. Braden, Esq. argued for minor. Kate Bird, Deputy County Counsel argued for respondent. Ms. Braden replied. Cause submitted.

Court recessed at 2:02 p.m. to change panel members. New panel members: The Honorable Patricia Benke, Acting Presiding Justice, and The Honorable Associate Justices Alex McDonald and Joan Irion

**D041930      Johnson v. Hooters of America, Inc., et al.**

Cause called on merits. Steven L. Victor, Esq. argued for appellant. Anthony E. Kalikas, Esq. was present in oral argument for appellant, but did not argue. Curt Charles Cutting, Esq. argued for respondent. Mr. Victor replied. Cause submitted.

FOURTH APPELLATE DISTRICT  
DIVISION ONE  
JUNE 17, 2004 (Continued)

Court recessed at 2:20 p.m. to change panel members. New panel members: The Honorable Patricia Benke, Acting Presiding Justice and The Honorable Associate Justices Terry O'Rourke and Joan Irion

**D042953        In re Cheyene F., et al., Juveniles**

Cause called on merits. Christopher Blake, Esq. argued for the minors. Joseph T. Tavano, Esq. argued for appellant, Michael W. Susan Bookout, Esq. argued for appellant, Diana W. Jacquelyn E. Gentry, Esq. argued for the minor, Cheyene F. M. Elizabeth Handy, Esq. argued for Michaela M. Kate Bird, Deputy County Counsel argued for respondent. Ms. Bookout replied. Cause submitted.

Court recessed at 3:06 p.m. until Friday, June 18, 2004 at 9 a.m.

**D041494        People v. Parker**

The judgment is affirmed. Irion, J: We Concur: Haller, Acting P.J., O'Rourke, J.

**D043905        Anne H. v. Superior Court of the County of San Diego/San Diego County Health and Human Services Agency**

The parties have notified this Court that the Petition for Extraordinary Writ filed on April 19, 2004, pursuant to California Rules of Court, rule 39.1B is now moot. Petitioner's Request for Judicial Notice filed on May 19, 2004, and Respondent's Motion to Dismiss Rule 39.1B Writ filed on June 11, 2004, are denied as moot. Judicial Notice is taken of the minute orders of the juvenile court in case number EJ02160C dated June 10, 2004, and June 16, 2004, and attached to the Joint Stipulation of All Parties for Dismissal of 39.1B Petition for Extraordinary Writ filed on June 17, 2004. Upon written stipulation filed by the parties to the 39.1B Petition for Extraordinary Writ, the petition is dismissed. The request for stay contained in the petition is denied as moot. This Court's order of May 21, 2004, placing the above-entitled matter on calendar for Friday, June 18, 2004, at 9:00 a.m. is vacated.

FOURTH APPELLATE DISTRICT  
DIVISION ONE  
JUNE 18, 2004

Court convened at 9:00 a.m.

Present: The Honorable Gilbert Nares, Acting Presiding Justice, and The Honorable Associate Justices Alex McDonald and Terry O'Rourke  
Clerk: D.E. Moore

**D042854 Furgatch v. San Diego Unified Port District et al.**

Cause called on merits. Stanley F. Zubel, Esq. argued for appellant. Doug Everetz, Esq. argued for respondent, San Diego Unified Port District. James M. Chapin, Esq. argued for respondent, City. Mr. Zubel replied. Cause submitted.

**D042801 Howard Jarvis Taxpayers Association et al. v. City of San Diego**

Cause called on merits. Leslie Girard, Esq. argued for appellant, City. Timothy Arthur Bittle, Esq. argued for respondent, Howard Jarvis. James Bruce Henderson, Esq. argued for respondent, Teyssier. Mr. Girard replied. Cause submitted.

Court recessed at 9:52 a.m. to change panel members. New panel members: The Honorable Gilbert Nares, Acting Presiding Justice, and The Honorable Associate Justices Alex McDonald and Joan Irion

**D043989 Norma L. v. Superior Court**

Matter called on merits. Christopher Booth, Esq. argued for petitioner. Kate Bird, Deputy Counsel argued for respondent. Mr. Booth replied. Matter submitted.

Court recessed at 10:20 a.m. until 1:30 p.m.

Court reconvened at 1:30 p.m.

Present: The Honorable Patricia Benke, Acting Presiding Justice, and The Honorable Associate Justices Alex McDonald and Terry O'Rourke  
Clerk: D.E. Moore

**D041664 People v. McAllister**

Cause called on merits. Robert W. Gehring, Esq. argued for appellant. Deana Bohenek, Deputy Attorney General argued for respondent. Mr. Gehring replied. Cause submitted.

**D042773 Parsons v. 21st Century Insurance Company**

Cause called on merits. Angela Saloufakos Parsons, argued for appellant in pro per. Gregory C. Kane, Esq. argued for respondent. Ms. Parsons replied. Cause submitted.

**D041980 Summers v. McClanahan**

Cause called on merits. Eugene Paolino, Esq. argued for appellant. John C. Edwards, Esq. argued for respondent. Mr. Paolino replied. Cause submitted.

Court recessed at 2:38 p.m. to change panel members. New panel member: The Honorable Patricia Benke, Acting Presiding Justice, and The Honorable Associate Justices Richard Huffman and Alex McDonald

FOURTH APPELLATE DISTRICT  
DIVISION ONE  
JUNE 18, 2004 (Continued)

**D043069      Wilson v. City of San Diego et al.**

Cause called on merits. Kenneth W. Baisch, Esq. argued for appellant. Carra L. Lassman, Esq. argued for respondent. Mr. Baisch replied. Cause submitted.

Court adjourned at 3 p.m.

**D042702      In re Conservatorship of Ben C.**

The judgment is affirmed. CERTIFIED FOR PUBLICATION. McConnell, P.J.; We Concur: Huffman, J., Aaron, J.

**D041077      Whispering Ridge Homeowners Association v. Chaudry**

The petition for rehearing is denied.

**D040093      Zamora et al. v. Consecro Finance Servicing Group**

It is ordered that the opinion filed on May 20, 2004, is modified. Consecro's appeal is declared moot and the judgment is reversed and remanded for the sole purpose of restoring jurisdiction of the matter to the superior court, with directions to that court to hear the substitution motion and to dismiss Consecro from the action. Each party is to bear its own costs of appeal. This modification changes the judgment. Respondents' petition for rehearing is denied.

**D041765      People v. Bunch**

The order revoking Bunch's probation in case No. SCD157651 is reversed. The matter is remanded to the trial court for a new evidentiary hearing by a different judge. Irion, J.; We Concur: McIntyre, Acting P.J., O'Rourke, J.

**D041727      People v. Cochran**

The judgment is affirmed. Nares, Acting P.J.; We Concur: McIntyre, J., O'Rourke, J.

**D044360      Ford v. Chang et al.**

The appellant having failed to timely pay the filing fee (Cal. Rules of Court, rule 1(c)(5)) and having failed to timely designate the record (Cal. Rules of Court, rules 4(a) and 5(a)), the appeal filed May 7, 2004, is DISMISSED.

**D044311      City of Lemon Grove v. Superior Court of San Diego County/Napoleon et al.**

The petition is denied.

**D044241      Drews v. Workers' Compensation Appeals Board et al.**

The petition is denied.

**D044502      Nicholas Grant Corporation-California Commercial Asphalt, JV v. Superior Court of San Diego County/Luther**

The petition is denied.

**D043932      Morris v. Workers' Compensation Appeals Board et al.**

The petition is denied.